

THE WESTON FIRM
GREGORY S. WESTON (239944)
greg@westonfirm.com
1405 Morena Blvd., Ste. 201
San Diego, CA 92110
Telephone: (619) 798-2006
Facsimile: (619) 343-2789

Class Counsel

DAVIS WRIGHT TREMAINE LLP
JACOB M. HARPER (259463)
jharper@dwt.com
NICOLE S. PHILLIS (291266)
nicolephillis@dwt.com
HEATHER F. CANNER (292837)
heathercanner@dwt.com
865 South Figueroa St., Ste. 2400
Los Angeles, CA 90017-2566
Telephone: (213) 633-6800
Facsimile: (213) 633-6899

Counsel for The Kroger Company

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SHAVONDA HAWKINS, on behalf
of herself and all others similarly
situated,

Plaintiff,

v.

THE KROGER COMPANY,

Defendant.

Case No: 3:15-cv-02320-JM-AHG
Pleading Type: Class Action

**JOINT STIPULATION TO REVISE
NOTICE PLAN IN CONFORMITY TO
COURT'S ORDER CONDITIONALLY
APPROVING CLASS ACTION
SETTLEMENT [DKT. 346]**

Judge: The Honorable Jeffrey T. Miller

1 On April 20, 2021, Plaintiff filed an unopposed Motion for Preliminary Approval of
2 Class Action Settlement. Dkt. 343. The Court held a hearing on June 21, 2021 and granted
3 conditional approval of the Settlement on July 2. Dkt. 346. In its order granting conditional
4 approval, the Court expressed concern that the “primary method of notification will be
5 through Facebook.” Dkt. 346 at 9. Further, the Court was “not convinced publication in a
6 single local newspaper would be sufficient to reach a statewide class.” *Id.* at 10. The Court
7 thus conditioned “its approval of Plaintiff’s Motion on the Parties submitting, and the
8 court’s approval, of a Revised Notice Plan addressing the above concerns.” *Id.*

9 Consistent with this order, the Parties conferred on a revised notice plan, with the
10 goal of reducing reliance on Facebook and increasing highly targeted direct notice using
11 Kroger’s shopper club records, as the Court suggested and the parties discussed at the
12 hearing.

13 While Kroger does not have granular records showing details of particular
14 customers’ purchases of specific items like KBC going back to the 2010-2015 class period,
15 it does have records of more recent buyers of KBC. As exemplified by Ms. Hawkins
16 herself, KBC buyers tend to buy the product regularly for specific recipes, meaning recent
17 KBC buyers are far more likely to have purchased KBC during the class period than those
18 reachable by any other possible targeting method. The method of notice will be e-mail for
19 those KBC buyers who have e-mail addresses on file, and for the rest via postal mail.

20 Thus, in addition to the notice provisions described in the Declaration of Gajan
21 Retnasaba in support of Plaintiff’s Motion for Preliminary Approval, the Parties stipulate
22 to modify and propose for the Court’s approval that notice be e-mailed or mailed to
23 Kroger’s California-based “club card” customers who purchased Kroger Bread Crumbs
24 within the last twelve months.

25 The parties believe notice by newspaper, except the minimum legal notice required
26 by the CLRA, is not a good method due to the fairly small reach of newspapers and the
27 relatively high cost of newspaper ads. Mr. Retnasaba’s proposal to send a press release
28

1 will, however, based on his extensive experience, lead to news websites covering the
2 settlement and linking to the settlement notice and claim forms.

3
4 DATED: July 21, 2021

Respectfully Submitted,

5 s/ Gregory S. Weston

6 GREGORY S. WESTON

7 **Class Counsel**

8
9 s/Jacob M. Harper

10 JACOB M. HARPER

11 **Counsel for Defendant**